

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

James E. Teague,

Plaintiff,

V.

Grant Riverside Methodist
Hospital Corp., et al.,

Defendants.

Case No. 2:03cv228

District Judge Michael H. Watson

ORDER

Before the Court is the September 16, 2005 Joint Motion of Defendants Grant/Riverside Methodist Hospital dba Grant Medical, Barbara D’Onorfrio and Franklin County Firefighters Association (hereinafter collectively “Defendants”) to Dismiss for Failure to Prosecute or to Reschedule Pretrial and Trial Deadlines. (Doc. 22) This motion is unopposed.

On December 3, 2004, the Court held a status conference in this matter. At that time, Plaintiff's counsel, Daniel Scott Smith, appeared and indicated to the Court that he was having difficulty locating his client. As such, on December 6, 2004, the Court stayed this matter for 30 days. (Doc. 18) On February 14, 2005, another status conference was held. Plaintiff appeared, however, his counsel did not. Plaintiff indicated to the Court that he had discharged his counsel and represented to the Court that he was obtaining new counsel. As a result, on February 15, 2005, the Court put on an order that Plaintiff was to obtain new counsel and have him or her enter an appearance within 30 days. (Doc. 21).

To date, Mr. Smith has not withdrawn as counsel for Plaintiff.¹ Moreover, new counsel has not entered an appearance. Plaintiff has not been in contact with Defendants. Additionally, Defendants are unable to obtain new service address for Plaintiff in order to initiate discovery. Further, prior to April 29, 2005, Defendants were unable to contact Mr. Smith, and he made no effort to contact Defendants.

To date, Plaintiff has taken no action to prosecute this matter since the date the Complaint was filed. Moreover, Plaintiff has taken no action to comply with the Court's order to obtain new counsel or to comply with the scheduling deadlines. As such, the Court concludes dismissal of this action for failure to prosecute is appropriate.

Accordingly, the September 16, 2005 Joint Motion of Defendants to Dismiss for Failure to Prosecute is hereby **GRANTED** and the September 16, 2005 Joint Motion of Defendants to Reschedule Pretrial and Trial Deadlines is hereby deemed **MOOT**.

IT IS SO ORDERED.



MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT

¹The Court notes that on April 29, 2005, the Supreme Court of Ohio entered an order that Daniel Scott Smith was to immediately cease and desist from the practice of law in Ohio pursuant to Rule V, Section 6(B)(2) of the Supreme Court Rules for the Government of the Bar of Ohio. Moreover, on September 28, 2005, in Case No. 1:05mc29, the United States District Court for the Southern District of Ohio ordered an interim remedial suspension immediately entered against Mr. Smith pursuant to Gov. Bar. R. V(5a)(B) of the Supreme Court Rules for the Government of the Bar of Ohio and Rule II of the Model Federal Rules of Disciplinary Enforcement adopted by the Southern District on February 5, 1979. (Doc. 4)